



Attorney's Docket No. 001560-340 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
HIGASHIYAMA et al) Group Art Unit: 1617
Application No.: 09/254,152) Examiner: S. Wang
Filed: February 26, 1999)
For: PROCESS FOR PRODUCING)
UNSATURATED FATTY ACID-)
CONTAINING OILS)

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In complete response to the Official Action, a Restriction Requirement, dated April 10, 2002, applicants provide the following remarks.

In the Restriction Requirement, the claims of the instant invention were divided into the following three groups of invention:

- I. Claims 13, 14, and 29-36, drawn to an oil containing arachidonic acid and a composition containing the same, classified in class 514, subclass 560.
- II. Claims 37-46, drawn to an oil containing mead acid and a composition containing the same, classified in class 514, subclass 560.
- III. Claims 19, 20 and 23-28, drawn to a method of producing unsaturated fatty acid-containing oils, classified in class 514, subclass 560.

Applicants hereby elect the Group I, invention, directed to claims 13, 14, and 29-36, with traverse.

The Examiner further asserts that the claims are directed to patentable distinct species of the invention. These species are as follows:

- (1) infant formula; and
- (2) animal feed.

Applicants hereby elect the species of (1), infant formula. Claims readable on this species include claims 13, 14, 29-30, and 32-36.

This election is made with traverse. Applicants respectfully submit that, according to the MPEP § 803, a restriction between patentably distinct inventions is proper only where there is a serious burden on the Examiner to examine all the claims in a single application. This is true even when appropriate reasons exist for a restriction requirement.

In the present application, it is believed that because there is a close relationship between the subject matter of Groups I, II and III, there would be no serious burden on the Examiner to examine all three sets of claims at this time. The close relationship between the subject matter of these groups is evidenced by the fact that searches for all three groups would be conducted in the same class (class 514) and subclass (subclass 560).

Furthermore, the Examiner previously considered all of these claims together, and thus the Examiner has previously considered there to be no undue burden to examine all of the claims together at this time.

The election requirement is also traversed. Again, the Examiner previously searched both species together, and therefore there would not be an undue burden to search both species together at this time.

In light of the above, withdrawal of the requirement for restriction between Groups I, II and II, and the requirement that a species be elected, are respectfully requested. Such action is believed to be in order.

Early and favorable action in the form of a Notice of Allowance is respectfully requested.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would contact the undersigned attorney so that prosecution would be expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: 

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Date: May 10, 2002



Patent
Attorney's Docket No. 001560-344

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
HIGASHIYAMA et al.) Group Art Unit: 1617
Application No.: 09/254,152) Examiner: S. Wang
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RESPONSE TO RESTRICTION REQUIREMENT TRANSMITTAL LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Enclosed is a Response to Restriction Requirement for the above-identified patent application.

- ☐ A Petition for Extension of Time is also enclosed.
- ☐ A Terminal Disclaimer and a check for ☐ \$55.00 (248) ☐ \$110.00 (148) to cover the requisite Government fee are also enclosed.
- ☐ Also enclosed is _____
- ☐ Small entity status is hereby claimed.
- ☐ Applicant(s) request continued examination under 37 C.F.R. § 1.114 and enclose the ☐ \$370.00 (279) ☐ \$740.00 (179) fee due under 37 C.F.R. § 1.17(e).
- ☐ Applicant(s) previously submitted __, on __, for which continued examination is requested.
- ☐ Applicant(s) request suspension of action by the Office until at least __, which does not exceed three months from the filing of this RCE, in accordance with 37 C.F.R. § 1.103(c). The required fee under 37 C.F.R. § 1.17(i) is enclosed.
- ☐ A Request for Entry and Consideration of Submission under 37 C.F.R. § 1.129(a) (146/246) is also enclosed.
- ☒ No additional claim fee is required.

Response to Restriction Requirement Transmittal Letter

Application Serial No. 09/254,152

Attorney's Docket No. 001560-344

Page 2

☐ An additional claim fee is required, and is calculated as shown below:

AMENDED CLAIMS					
	NO. OF CLAIMS	HIGHEST NO. OF CLAIMS PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	ADDT'L FEE
Total Claims		MINUS =		× \$18.00 (103) =	-0-
Independent Claims		MINUS =		× \$84.00 (102) =	-0-
If Amendment adds multiple dependent claims, add \$280.00 (104)					
Total Amendment Fee					
If small entity status is claimed, subtract 50% of Total Amendment Fee					
TOTAL ADDITIONAL FEE DUE FOR THIS AMENDMENT					-0-

☐ A claim fee in the amount of \$_____ is enclosed.

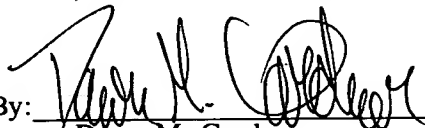
☐ Charge \$_____ to Deposit Account No. 02-4800.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(d) and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By:


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(10/01)